

**REMARKS**

Claims 1-13 are pending in this application. Claims 1-13 have been canceled.

Claims 14-39 have been added. Support for claim amendments is found in the claims as originally filed and throughout the specification. Support for Claim 14 is found in Claim 1 as originally filed and on page 4, lines 4-35; on page 5, lines 1-35; on page 8, lines 11-34; on page 9, lines 1-34; on page 10, lines 1-15; on page 14, lines 1-34; and on page 15, lines 1-8. Support for Claim 15 is found on page 5, lines 3-5, and on page 15, lines 31-34. Support for Claim 16 is found on page 4, lines 9-15. Support for Claim 17 is found in Claim 2 as originally filed and on page 6, lines 28-34. Support for Claim 18 is found in Claim 2 as originally filed and on page 7, lines 5-9. Support for Claim 19 is found in Claim 2 as originally filed and on page 7, lines 1-9. Support for Claim 20 is found in Claim 2 as originally filed and on page 7, lines 10-16. Support for Claim 21 is found in Claim 2 as originally filed and on page 7, lines 12-16. Support for Claim 22 is found on page 4, lines 26-30. Support for Claim 23 is found on page 5, lines 5-11, and on page 8, lines 19-20. Support for Claim 24 is found in Claim 3 as originally filed. Support for Claim 25 is found on page 5, lines 8-19. Support for Claim 26 is found on page 5, lines 32-35. Support for Claim 27 is found on page 6, lines 7-9. Support for Claim 28 is found on page 5, lines 32-35. Support for Claim 29 is found on page 11, lines 10-16 and lines 25-34. Support for Claim 30 is found on page 16, lines 1-6. Support for Claim 31 is found on page 12, lines 22-23. Support for Claim 32 is found on page 12, lines 9-10. Support for Claim 33 is found on page 12, lines 24-25. Support for Claim 34 is found in Claim 13 as originally filed and on page 13, line 13. Support for Claim 35 is found on page 7, lines 22-27. Support for Claim 36 is found in Claim 8 as originally filed

and on page 12, lines 15-16 and 30-31. Support for Claim 37 is found on page 7, lines 22-27. Support for Claim 38 is found in Claim 5 as originally filed and on page 12, line 35. Support for Claim 39 is found in Claim 12 as originally filed and on page 12, line 34. No new matter has been added.

### ELECTION OF SPECIES

The Applicant notes that the embodiments of the present application are directed to at least a method for making CAPRI cells and a method for administering CAPRI cells for cancer therapy (*paragraph 2 of page 2 of the Office Action*). To further clarify which steps of the present methods are required for preparing CAPRI cells and administering them for cancer therapy, the Applicant provides new Claims 14-28 directed to methods for making CAPRI cells conducted *in vitro*, and Claims 29-39 directed to methods for administering CAPRI cells conducted *in vivo*. The Applicant further notes that CAPRI cells produced by the claimed methods (14-28) are intended to be administered to a patient as provided in the claimed methods (29-39) (in reference to *paragraph 3 of page 2 of the Office Action*). The subject matter of Claim 13 is presented in new Claim 34, including administering CAPRI cells produced by the *in vitro* methods of Claims 14-28 into a patient in conjunction with radiotherapy (in reference to *paragraph 4 of the Office Action*). Claim 5 has been canceled. Thus the objection against Claim 5 for a lack of antecedent basis is moot.

The Office Action purportedly alleges that patentably distinct species of the claimed method are provided. The Office Action requires the Applicant to make four species elections from purportedly four generic concepts.

In view of the specification, Applicants submit that Claims 1-13 have not be interpreted correctly, and thus the requirement for the species election is believed to be improper. Thus, new Claims 14-39 are presented to further clarify the subject matter originally presented as Claims 1-13. The Applicant asserts that the claim elements identified by the Office Action as "distinct species" are clearly linked by a single inventive concept. Moreover, the search and examination of all the elements of the claims that are purportedly "distinct species" can be conducted at the same time without a serious burden to the Examiner. Thus, the Applicant traverses the requirement for the species election, and requests that the requirement be withdrawn.

The Applicant provisionally elects, *with traverse*, and for the purpose of searching only, the following:

For category 1 (*paragraph 7, page 3 of Office Action*), the immobilized anti-CD3 antibody is provisionally elected. It is believed that new Claims 14-28 based on Claims 1-13 are readable upon the elected species, immobilized anti-CD3 antibody.

For category 2 (*paragraph 7, page 3 of Office Action*), the IL-2 is provisionally elected. It is believed that new Claims 14-28 based on Claims 1-13 are readable upon the elected species, IL-2.

For category 3 (*paragraph 8, page 4 of Office Action*), the method further comprising administration of CAPRI cells to a patient is provisionally elected. It is believed that Claims 29-39, based on claims 1-13 are readable upon the elected species.

For category 4 (*paragraph 8, page 4 of Office Action*), the method further comprising radiotherapeutic treatment is provisionally elected. It is believed that Claims 29 and 34 from Claims 1 and 12 are readable upon the elected species.

Applicants expressly reserve the right to traverse any subsequent divisions made by the Examiner of the present invention into "inventive groups" following the present provisional election of the four species for examination.

Applicants have no intention of abandoning any non-elected subject matter, and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

With regard to the required four species elections, the Applicant submits that the M.P.E.P. § 803 provides: "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." In addition to showing the serious burden, the Patent Office is also under an obligation to demonstrate that the species are independent and/or distinct. M.P.E.P. § 806.04(b). The Applicant further submits that a reasonable number of species may still be claimed in one application under 37 C.F.R. § 1.141 and M.P.E.P. § 806.04(a). The Office Action fails to provide any basis for finding the various members of the generic classes in question as independent and/or distinct. Because the Office Action fails to set forth any distinction among the purported species and fails to explain why the

amount of purported species would be seriously burdensome on the Examiner, the Applicant respectfully requests the reconsideration and the withdrawal of the multiple species election requirement.

**CONCLUSION**

Claims 1-13 are pending, and have been canceled by the present amendment. Claims 14-39 have been newly added to clarify the subject matter previously presented as Claims 1-13. Entry of the foregoing amendments is respectfully requested.

Based on the current amendments and arguments presented, the withdrawal of the requirement for election of species is requested and is believed to be in order. Further and favorable consideration of the claims based on the merits is respectfully requested.

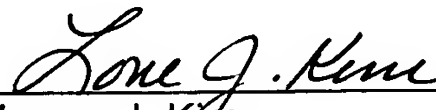
Should the Examiner have any questions concerning this Response, or the subject application in general, a telephone call to the undersigned attorney would be greatly appreciated so that the prosecution of this application may be expedited.

Respectfully submitted,

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